

# HOUSE BILL REPORT

## HB 1838

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### As Passed Legislature

**Title:** An act relating to increasing the threshold for short board appeals before the shorelines and pollution control hearings boards to fifteen thousand dollars.

**Brief Description:** Increasing the threshold for short board appeals before the shorelines and pollution control hearings boards.

**Sponsors:** By Representatives Linville, Grant and Hinkle; by request of Environmental Hearings Office.

### Brief History:

#### Committee Activity:

Natural Resources, Ecology & Parks: 2/25/05, 2/28/05 [DP].

#### Floor Activity:

Passed House: 3/10/05, 94-0.

Passed Senate: 4/4/05, 41-0.

Passed Legislature.

### Brief Summary of Bill

- Allows appeals of shoreline permits to be heard by only three members of the Shorelines Hearing Board if the penalty amount in dispute is \$15,000 or less.
- Raises the penalty level that allows the Pollution Control Hearings Board to hear cases with only one presiding member from \$5,000 to \$15,000.

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### HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

**Majority Report:** Do pass. Signed by 10 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake, Dickerson, Eickmeyer, Hunt, Orcutt and Williams.

**Staff:** Jason Callahan (786-7117).

### Background:

The Shorelines Hearing Board is a six-member quasi-judicial body that exists primarily to hear appeals by those aggrieved by the shorelines permitting system. The six members of the Shorelines Hearing Board are composed of three members from the Pollution Control

Hearings Board, a designee of the Commissioner of Public Lands, and designees from both the Association of Washington Cities and the Association of Washington Counties.

The Shorelines Hearing Board is housed administratively within the Environmental Hearings Office (EHO). The EHO also houses the Pollution Control Hearings Board, and other quasi-judicial bodies that serve as the first level of appeal from various decisions by state government and local governments involving environmental and land use issues.

Most appeals to the Shorelines Hearing Board involve all six members, with a minimum of four members required to agree on the disposition of the case. However, some appeals qualify for an expedited appeal. Appeals involving a singly family residence, or an appurtenance to the residence like a dock or pier, qualify to be heard by only three members of the Shorelines Hearing Board. This smaller body within the larger Shorelines Hearing Board is known as a short board. For short board decisions to be binding, two of the three members must agree on the disposition of the case.

In addition to disputes that qualify to be heard by a short board, the Shorelines Hearing Board has the authority to designate other expedited processes. Allowed alternatives include mediation, testimony affidavits, and other processes that are less formal than the standard rules for courts in Washington.

The Pollution Control Hearings Board exists primarily to hear appeals arising from other environmental permitting decisions. Similar expedited appeals options are available to parties before this quasi-judicial body. Specifically, disputes involving a penalty of less than \$5,000 may be heard by a single member of the Pollution Control Hearings Board. The decision of that board member constitutes the final decision by the entire Pollution Control Hearings Board.

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**Summary of Bill:**

The ability for the Shorelines Hearing Board to hear disputes in its smaller short board form is expanded to include appeals involving penalties of \$15,000 or less. Likewise, the financial threshold for the Pollution Control Hearings Board to hear a case involving a penalty in its smaller short board form is raised from \$5,000 to \$15,000.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This is a simple bill that gives flexibility for the EHO to use its travel money more wisely. Disputes that use short boards find them efficient, and rarely involve large policy decisions. If short boards can hear more cases, then the actual board members would

be able to get out and hold more hearings in the communities where the cases arise. It is cheaper to pay travel expenses for short boards as compared with full boards. Additional travel into communities provides better access to justice. This bill has been vetted through stakeholders with no negative reaction.

**Testimony Against:** Bill H. Lynch, Environmental Hearing Office.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.